

Appln. No. 10/634,682

REMARKS/ARGUMENTS

I. THE EXAMINER INTERVIEWS

Applicants greatly appreciate the courtesy extended by Examiner Balasubramanian during the May 30, June 2, July 12 and August 1, 2005 telephone examiner interviews. The substance of the interviews is incorporated into the following remarks. This Amendment replaces the May 4, 2005, the June 9, 2005 and the July 13, 2005 Amendments.

II. THE AMENDMENTS TO THE CLAIMS

New claims 23 and 25 are supported by original claim 1.

New claim 24 is supported by Example B15 on page 31, lines 17 to 27, wherein the preparation of the hydrochloride salt of 4-[[4-amino-5-bromo-6-(4-cyano-2,6-dimethylphenoxy)-2-pyrimidinyl]amino]benzonitrile is described.

Support for the amendment to claim 1 can be found in the application on page 31, lines 5 to 16, Example B14, mentioning the preparation of compound 46, which is 4-[[4-amino-5-bromo-6-(4-cyano-2,6-dimethylphenoxy)-2-pyrimidinyl]amino]benzonitrile, and the information in Table 2, page 37, last line, where Compound 46 is defined in terms of its structure.

Support for the new claim 26 can be found in the application on page 17, line 35.

Support for the new claims 27 and 28 can be found in the application on page 21, line 31 to 32.

Support for claims 29 and 30 can be found on page 17, line 35 and page 21, line 31 to 32.

Support for claim 31 can be found on page 16, line 35 to 38.

Support for claim 32 can be found on page 22, line 6 to 27.

III. FINAL OFFICE ACTION AND THE FIRST ADVISORY ACTION – THE REJECTIONS UNDER 35 U.S.C. § 112

A. Of Claim 6

In the final Office Action, the Examiner rejects claim 6 under 35 U.S.C. § 112, second paragraph, for use of the terms dextran and (dextran sulfate). In response, claim 6 has been amended. The word "dextran" has been deleted and the parentheses around dextrane sulfate have been deleted as well. Thus, the rejection under 35 U.S.C. § 112, second paragraph, is

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obviated. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, are respectfully requested.

B. Of Previously Introduced Claims 27-31

In the first Advisory Action, the Examiner rejects claims 27-31 as introduced in the Amendment submitted on May 4, 2005 as duplicative of previously presented claims 2, 23, 24, 26 and 30. In response, Applicants amend claim 2 to include the structure therein; and cancel the subject matter of previously introduced claims 27-31. Thus this rejection is obviated. Reconsideration and withdrawal of the rejection are respectfully requested.

C. Of Previously Introduced N-oxide claims

In the first Advisory Action, the Examiner rejects claims to N-oxide as a species. In response, although Applicants believe that there is sufficient support in the present specification for claims directed to N-oxide forms of the compound of the invention, Applicants cancel such claims herein to expedite prosecution of the remaining claims. Applicants reserve the right to file divisional applications on these claims. Thus, this rejection is obviated. Reconsideration and withdrawal of the rejection are respectfully requested.

IV. THE SECOND ADVISORY ACTION

In the second Advisory Action, the Examiner indicates that the Amendment submitted June 13, 2005 did not place the application in condition for allowance for the following enumerated reasons:

1. Addition of new claims (i.e., claims 37-41) with different scope than that already examined;
2. Addition of new claims (i.e., claims 26 and 27) that raise 112, first and second paragraph, issues; and
3. Addition of improper multiple dependent claims (i.e., claims 19-21 and 33-37).

In response, to expedite prosecution of this application, with regard to reasons 1 and 2 above, Applicants cancel previously introduced claims 26, 27 and 37-41. Applicants reserve the right to file divisional application(s) on the canceled claims. With regard to reason 3 above, Applicants amend the claims to have proper dependency. Reconsideration and withdrawal of the rejections are respectfully requested.

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V. THE DOUBLE PATENTING REJECTIONS

A. Of Claim 21 Over Claims 8, 10, 19, 20 And 21 Of U.S. Patent No. 6,878,717

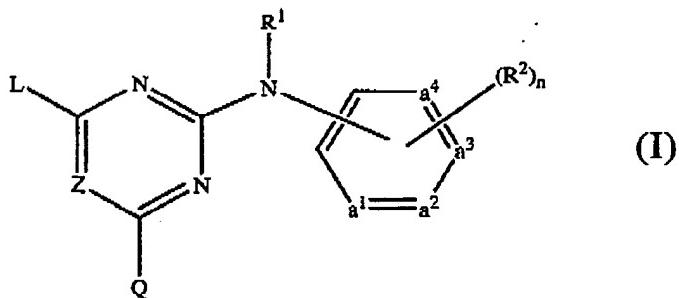
In the first Advisory Action, the Examiner maintains the rejection of claim 21 under the judicially created obviousness-type double patenting over claims 8, 10, 19, 20 and 21 of co-pending Application No. 09/430,966, now issued as U.S. Patent No. 6,878,717 ("the '717 patent"). In response, Applicants submit herewith a terminal disclaimer to disclaim the terminal part of the statutory term of any claim in any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,878,717. 37 C.F.R. § 1.321.

Reconsideration and withdrawal of the rejection of claim 21 under the judicially created obviousness-type double patenting are respectfully requested.

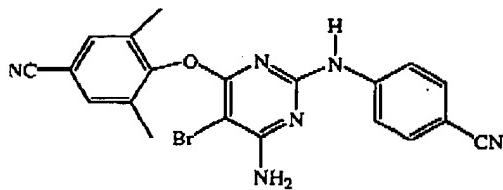
B. Of Claims 1-22 Over Co-pending Application No. 10/275,931

In the final Office Action, the Examiner rejects claims 1-22 under the judicially created obviousness-type double patenting over claims 1-8 and 10-135 of co-pending Application No. 10/275,931 ("the '931 application"). Applicants respectfully traverse the rejection.

Applicants respectfully submit that the subject matter recited in the claims of the '931 application does not overlap with the subject matter recited in claims 1-22 of the present application. In particular, the claims of the '931 application recite formula (I):



wherein, the claims 1-22 of the present application recite compounds having the following basic structure:



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The Examiner's attention is drawn to the fact that the definition of "Q" in the '931 application does not include an amino group. Hence there is no overlap between the claims recited in the '931 application and claims 1-22 of the present application. Reconsideration and withdrawal of the rejection of claims 1-22 under the judicially created obviousness-type double patenting are respectfully requested.

VI. THE AUGUST 1, 2005 TELEPHONE INTERVIEW

Applicants greatly appreciate the Examiner's indication during an August 1, 2005 telephone interview that a number of claims are allowable. During the August 1, 2005 telephone interview, the Examiner objected to the following claims:

1. Claim 32 in the Amendment submitted on July 13, 2005 for being a duplicate of claim 4;
2. Claim 31 in the Amendment submitted on July 13, 2005 for use the term "infection", asserting that the claim as written did not make sense; and
3. Claim 33 in the Amendment submitted on July 13, 2005 for not reciting "an effective amount".

In response, Applicants:

1. Delete prior claim 32 and renumber the remaining claims;
2. Move the term "infection" in claim 31 to the proper location; and
3. Add "an effective amount" to claim 33.

Reconsideration and withdrawal of the objections to the claims are respectfully requested.

VII. THE AUGUST 1, 2005 INFORMATION DISCLOSURE STATEMENT

Applicants submit with this Amendment an Information Disclosure Statement to bring the Examiner's attention to four references uncovered during a prior art search. In accordance with 37 C.F.R. § 1.97(e)(2), Applicants representative submits:

That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

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The fee set forth in 37 C.F.R. § 1.17(p) accompanies the Information Disclosure Statement. Applicants note for the Examiner's information that U.S. Patent Nos. 6,200,977; 6,528,513; and 6,835,726 all contain the same disclosure.

VIII. CONCLUSION

Early consideration and prompt allowance of the pending claims are respectfully requested. Should the Examiner require anything further, the Examiner is invited to contact Applicants' representative at the telephone number below.

Please charge any additional fees in connection with the filing of this Amendment or credit overpayment to Deposit Account No. 10-0750/JAB-1425-CNT1/LAD. Three copies of this sheet are enclosed.

Respectfully submitted,

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Attachments: Information Disclosure Statement
Terminal Disclaimer (revised copy submitted)